

The Board of Trustees
of the
School and Institutional Trust Lands Administration

☐ *New Policy* ☐ *Amends Policy No.* ☐ *Repeals Policy No.*

Policy Statement No. 2006-01

Subject: Roads and Access

The Board of Trustees of the School and Institutional Trust Lands Administration met in open, public session on January 19, 2006, and by majority vote declares the following to be an official policy of the Board:

- * The Board recognizes that there is an extensive road network which provides access to and across many trust lands. This access is important to allow full and economic development of trust lands.
- * The state legislature recognized the value of roads in 1992 and granted a temporary right of entry on any road crossing trust land which was in existence as of January 1, 1992. This legislative grant recognized that the state still had to fulfill “its fiduciary responsibilities toward the schoolchildren by protecting their trust holdings against loss” (Section 72-5-201(2)).
- * Generally, roads fall into four categories:
 - * roads that were established on trust land prior to title to the land vesting with the State of Utah and which are considered valid existing rights (Category 1 Roads);
 - * roads that were established across trust lands after title to the land vested with the State of Utah and:
 - * which do not have a grant of authority from the Trust Lands Administration, but which have been temporarily authorized by a grant of right of entry from the state legislature (Category 2 Roads); or
 - * which have been established after January 1, 1992, without a grant of an authority from the Trust Lands Administration and which are currently unauthorized (Category 3 Roads); or
 - * for which there is a valid grant of easement from the Trust Lands Administration or a predecessor agency (Category 4 Roads).

The Board hereby established the following policy to deal with these road categories:

Category 1 Roads (Roads established prior to the state acquiring title to land):

- * The Administration is directed to apply a liberal standard towards accepting an assertion of a valid existing right. It will be *prima facie* evidence that a road is a valid existing right if it appears on a General Land Office survey plat evincing the date of survey for establishment of the State's title.
- * The Administration will ultimately recognize an appropriate right-of-way scope established pursuant to Utah law and in the interim will recognize a 50-foot width for Class D roads and a 100-foot width for Class B roads, with the understanding that the acknowledgment will ultimately conform to the scope recognized by the United States on adjoining federal lands.
- * The Administration is directed to negotiate a Programmatic Agreement with the State Historic Preservation Officer to deal with issues involving historic properties.
- * Any documentation issued by the Administration recognizing or conditionally recognizing a valid existing right will be developed in conjunction with the State of Utah so that it will facilitate, to the greatest degree possible, resolution of RS 2477 issues.
- * The Administration should recover modest administrative costs for recognizing valid existing rights.

Category 2 Roads (Roads temporarily authorized pursuant to Section 72-5-203):

- * The Administration is directed to work with other governmental entities to convert temporary rights of entry into permanent easements, where doing so will not diminish the value of the trust asset.
- * The Administration, recognizing the value and importance of access to trust land income generation and in fulfilling its fiduciary duty to receive fair-market value for the use of trust assets, shall consider any reasonable approach to compensation, including, but not limited to: discounted pricing for multiple easements in the same application; payment-in-kind for future services rendered; receipt of compensation from affected lessees / permittees and purchasers; payment from state sources to preserve access for all citizens;

and the use of funding mechanisms such as the OHV fund established pursuant to Section 41-22-19(3). Previous construction and ongoing routine road maintenance may be acceptable as compensation to the extent it is demonstrated that the construction and maintenance directly benefits the trust land beneficiary.

- * If judicial review determines that the temporary grant is extinguished by sale or other disposal of the property, rules should be promulgated to protect these roads, where appropriate, pursuant to Section 72-5-203(2).

Category 3 Roads (Roads created without authorization):

Roads established after January 1, 1992, without approval of the Trust Lands Administration, unless the road was pre-existing on land acquired by the Trust Lands Administration after January 1, 1992, should be legitimized by following the process outlined in existing rule and statute (R850-40 and Sections 53C-2-301 et seq.).

Category 4 Roads (Roads with valid existing authorization):

These roads should continue to be administered pursuant to existing rule (R850-40).